Issue 27
January 2012

NEWSLETTER

EAST-WEST DEBT

Specialist in defaulted debt and antitrust damages claims

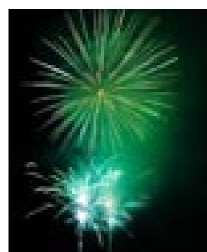
IN THIS ISSUE

- Introduction
- European Cartels: Facts and Figures
- Libya: new heroes and thugs for Libya, with whom have you been doing business?
- Bolivia: how foreign investors turn into State sponsors
- Cartels in Europe: The Pfleiderer judgment
- How does sovereign risk affect bank funding conditions? What can policymakers do?
- Iran: a grumbling oil economy with sand in the gears
- Turkmenistan: slow move towards a market based economy
- Venezuela: when the talk does not match the walk, Chavez's 21st century

EAST-WEST DEBT N.V.
Meir 24
2000 Antwerp
Belgium
Tel.: +32 3 231 45 03
Fax: +32 3 231 95 45
mail@eastwest.be
www.eastwest.be

Introduction

Welcome to our first newsletter of 2012! In this newsletter, we give expert comments and clear insight on the political situation in several countries. In 2011 we have seen the Arabic spring flourish in Tunisia, Egypt and Libya. We have also witnessed the ongoing turmoil of the (European) debt crisis. In the tumult of these worldwide events, East-West Debt continues to remain at your service to assist your company in solving defaulted debts on political risk countries. Moreover, we provide legal assistance to companies that have suffered damages by European illegal antitrust activities. May the year 2012 be a fantastic year for all of you!



The team of East-West Debt

European Cartels: Facts and Figures

Illegal cartels are often named a cancer for the economy. To which extend are these cartels damaging the European economy? Why are companies reluctant to seek redress when harmed by such cartels? In this article we will discuss some facts and figures about European Cartels.

In recent years, the European Commission has declared its determination to hunt down cartels. In particular, it has reinforced its fight against cartels by increasing the level of fines imposed to price fixers[1]. Fines of more than hundreds of € millions are no exceptions anymore.

Impact of Cartels

The European Commissions Impact Assessment Report of 2008[2], which accompanied the White Paper for collective redress[3], estimates that the total annual cost to consumers and other victims in the EU ranges from €25 billion (based on the most conservative assumptions) to over €69 billion (based on the least conservative). The highest fine ever imposed by the European Commission is more than €1.3 billion for the Carglass Cartel. In 2010, the EU imposed €2.9 billion of fines in total for illegal cartels. Expressed as a proportion of the EU's gross domestic product, the negative consumer welfare impact of all these cartels is estimated as ranging from 0.23% to 0.62% of the EU's GDP in 2007[4]. The detection rate for hard-core cartels is generally assumed to be no more than between 10% and 20%[5].Thus many cartels remain undiscovered.

Has your company used Aircargo between 1999 and 2006?

East-West Debt will buy your claim at the best terms and conditions.

Please contact us at 00 32 3 231 45 03 .

Redress?
Remarkably, victims of competition breaches still rarely seek reimbursement for damages suffered. As the Commission has estimated in its Report, the amount of compensation that these victims are forgoing ranges from €5.71 billion to €23.3 billion a year across the whole EU[6]. As stated above, the size of the uncompensated harm is major. But often harmed companies are unwilling to claim compensation. There are several reasons why redress actions for damages are not taken.

First of all, there is a severe loophole in knowledge about cartel infringements among companies. Company lawyers' main concern is dealing with compliance issues of a company rather than dealing with the European Commissions' cartel findings. They are used to dealing with the defensive aspects of the company: the liabilities, rather than dealing with offensive possibilities concerning cartel cases.

Secondly, there can be an unfavourable risk/reward balance for claimants. Almost always a cartel infringement is detected several years later. Evidence of a specific period is often a problem, especially with the seemingly never ending conversion of data, as a result of takeovers. When analysing the available data, the risk/reward ratio is often negative to commence full blown litigation since such litigation can be extremely costly.

European Commision building

Thirdly, some companies are afraid to damage their existing relationship with the cartelists. Perceived dependency on the supply of goods or services from the cartelists can thus prevent a company from doing what would seem to be the most logical thing, namely retrieving its damages.

Redress!
At East-West Debt we carefully monitor all developments concerning antitrust regulations, competition infringements and private damages actions. We are of the opinion that convicted cartel members must pay for breaching competition rules. And we are willing and able to undertake the challenge of complex multi-jurisdictional litigation.

If you believe to be a victim of a competition law infringement, do not hesitate to contact us. Antitrust specialists of our offices in The Hague, The Netherlands, are ready to assess your case. You can reach us by dialling +31 (0)70 3604466, or by sending us an e-mail: info@eastwestdebt.nl

[1] Fines against hard core cartels in Europe: the myth of over enforcement, Constance MONNIER, Emmanuel COMBE
[2] Commission staff working document accompanying document to the White paper on damages actions for breach of the EC antitrust rules - Impact assessment {COM(2008) 165 final} {SEC(2008) 404} {SEC(2008) 406} /* SEC/2008/0405 final */
[3] WHITE PAPER on Damages actions for breach of the EC antitrust rules
[4] Commission staff working document accompanying document to the White paper on damages actions for breach of the EC antitrust rules - Impact assessment {COM(2008) 165 final} {SEC(2008) 404} {SEC(2008) 406} /* SEC/2008/0405 final */
[5] As above
[6] As above

East-West Debt assists companies that have suffered damages by illegal antitrust activities in private enforcement actions.
We are currently active in the Air Cargo Cartel and the Lifts, Elevator and Escalator Cartel.
For more information, please contact us.

Libya: new heroes and thugs for Libya, with whom have you been doing business?

Libya's foreign debt was one of the lowest of the world in 2010 as it rated only 9% of its GDP (compared to the US which is 95% of its GDP). The countries oil economy contributed about 95% of export earnings. Substantial revenues from the energy sector coupled to a small population resulted in one of the highest per capita GDPs in Africa.

Since the lifting of the UN sanctions in 2003 and Libya's announcement to abandon programs to build weapons of mass destruction, Libya started reintegrating into the international fold. This development and economic reforms meant Libya could attract more foreign investments, boosting in particular its energy sector. This process slowly commenced the liberalizing of the socialist-oriented economy.

This changed with the Arabic revolution sweeping over the MENA countries, which was ignited in Tunisia. When Colonel Gaddafi's family dashed across the desert to Algeria and the rebels were entering into Tripoli, the days of the Gaddafi regime came to an end and people started speculating about the future of Libya.

Now that Gadaffi is dead, there is uncertainty on how the rebel National Transitional Council (NTC), or any new government after that, will manage Libya's future. The fear for vengeance against all people that were supportive to the old regime is an important question for many.

This question does not only concern the people of the Gaddafi clan, loyalists, sons, henchmen or mercenaries. Also foreigner investors, who did business in Libya, could be regarded as regime thugs or regime supporters. Will it become a mob ruled chase, as the 86-year old Libyan actor Mukhtar al-Aswad could already experience when he was dragged out of his car at one of the makeshift roadblocks set up by the rebels? Aswad was known for making pro-Gaddafi speeches on television.

The new interior minister, Ahmed Darrat, of the NTC says that everyone will be given a fair trial and that revenge attacks should be considered as singular and not part of the rebels' programme. The goal is to implement justice for everybody, including Gaddafi loyalists.

But at this moment, there are only prosecutors and no defence lawyers.

It is clear that the new leaders in Libya are taking matters in their own hands, refusing any foreign help, as leaders of the NTC have already insinuated by ruling out the possibility of allowing UN forces into Libya. Foreign governments, such as the UK, have advisors working with the NTC, offering advice on how to maintain law and order. But the NTC only takes advice when requested by the Libyans themselves. They insist on taking their own security arrangements.

Proof of such on the financial side is the decision of the NTC about the misappropriation of funds. In August 2011, Ali Tarhouni, minister of financial and oil affairs for the NTC, appointed Mahmoud Badi, formerly a civil servant under Gaddafi, to investigate the Libyan Investment Authority (LIA). In August 2011, Badi found "misappropriation, misuse and misconduct of funds" with $2.9 billion missing from the LIA.

The LIA was the government entity or also a sort of sovereign wealth fund, established in 2006, to oversee and manage the governmental investment funds in various areas, such as agriculture, real estate, infrastructure, oil, gas, shares and bonds. It also has overseas investments such as stakes in the Italian bank UniCredit, Italian football club Juventus and Pearson, the owner of the Financial Times, as was reported by the BBC in August 2011.

The NTC has the intention to contact all foreign institutions, which were attached to these LIA funds, asking them to bear responsibilities and might claim some type of restitution for the Libyan people.

London has also been the scene of business dealings with the Libyans. Real estate was bought, a £220 million stake in Pearson and probably also Barclays and BP. Other British businesses are said to benefit from the good relations, such as HSBC, which won a lucrative banking licence in Tripoli, next to JP Morgan.

When a new government emerges, the natural reflex will be to turn away from all people who did business with the Gaddafi regime. The NTC has also announced their intention to pursue any international firm found to have participated in corrupt activity.

The new Libyan government will be faced with rebuilding a new infrastructure, which was already of very low quality during the Gaddafi regime. Restoring and getting a grip on the energy sector will be of the essence for Libya and the NTC is very much aware of that.

During the fights, the rebels already had oil-producing capacity. They had the people, the fields and terminals, but lacked the financial structure. Oil was being sold with the help of Qatar and by using Agoco, the rebel-controlled Arabian Gulf Oil Company. US and UN officials said that these oil sales did not fall under the sanctions. Ownership rights were being solved easily. But Libya is still very far from the 1.6 million barrels a day it produced before the armed conflict began.

After the dust of the armed conflict has settled, it has been reported by CNN that it will take another 18 to 20 months to create a political framework for a new Libyan government.

From the first signs of the crumbling of the Gaddafi regime a scrambling for new contracts started. Spain and Italy were amongst the first European countries to lay the grounds for new deals. Instead of participating with the NATO military operations in Libya, these countries have been preparing other operations, much to the disadvantage of the UK and France, which focussed on the military air support of the rebels.

During the EU summit in Paris in September 2011 the EU head of diplomacy, Catherine Ashton, announced to help Libya to restore the safety of the economy. This summit was called together at initiative of the French President Sarkozy, who had a leading role in the downfall of the Gaddafi regime. Economic sanctions were eagerly lifted by the EU countries, which made new deals possible with the energy and financial sector of Libya. In doing so, the EU countries, in particular the UK and France, were responding to the NTC hopes to end all freezing of Libyan assets.

The newly appointed chief executive, Rafik al-Nayed of the Libyan LIA, its subsidiaries, operating companies (such Lafico, Libyan Arab Foreign Investment Company) and the central bank of Libya, which by the end of August 2011 was well under the control of the NTC, could therefore start to raise an emergency fund for Libya, using its frozen oversees assets. Loans could be discussed even before UN and EU sanctions were lifted, anticipating on the proof that the signatories of the Gaddafi regime were no longer legally responsible for the Libyan institutions.

Whether aid and sympathy for the NTC or future government of Libya, together with the availability of funds, would also mean that Libya's outstanding debts will be paid, remains uncertain. If any outstanding debt can be connected to the alleged corrupt dealings of the former Gaddafi clan, it is to be feared that this will cause heavy resistance from the new regime. Not only will the Libyans challenge any claims against Libya based on the available legal arguments, such as time limitation, force majeure and succession of state, each claim will also have to pass the scrutiny of the new authorities rejecting all Gaddafi's corrupt dealings. One can rest assured that the new Libyan authorities will set up a system of severe conditions for accepting its old foreign debts. Most probably it will be accompanied with conditions of debt reduction and 'take it or leave it' offers.

Any company which is holding outstanding claims on Libya is advised to immediately take legal actions to safeguard its claims rights for the future.
For free advice please call + 32 3 231 45 03 or send an email to: mail@eastwest.be

Bolivia: how foreign investors turn into State sponsors

Travelling to Bolivia could be hazardous for people not travelling in groups, such as students or couples, making themselves easy targets for so-called policemen in search of identity papers and credit cards. They demand the codes, if necessary with force, and loot your bank account. As it seems, foreigners, whether tourists or investors, are not welcome in Bolivia and risk being robbed.

Last year foreign investments in Bolivia fell by $148 million, according to the data from the Bolivian Central Bank and the National Statistics Institute. The nationalization or subjugating (a process known as "avasallamiento") of companies has caused uncertainty amongst investors.

Nevertheless, IMF reports on Bolivia still suggest increased growth and deep political and social changes. The IMF report only makes a small reference to tensions due to longstanding social and regional disputes, which constrain the room for policy manoeuvres.

The suggested growth seems to be based solely on an authorities development plan that envisages the expansion and industrialisation of natural resources production. Strategic control of this sector remains in State hands, while private financing is only promoted in partnership with the State, with the view to improve access to modern forms of management, technology and financing.

The low private investment rate has been admitted by Bolivia, as it dropped 35 positions down to number 126 on the World Bank's Ease of Doing Business index this year. Investments in exploration of gas, oil and mining have declined sharply, due to uncertainty about the rules of the game for these activities as their legal frameworks are under discussion.

Like Venezuela and Ecuador, Bolivia is nationalizing its energy sector and natural resources industry in order to keep the revenues under control of the Bolivian political leadership. Some resources are being regarded as strategically important for the country. This was recently decided for lithium, for which a growing world market exists and of which large quantities have been found in Bolivia's salt lake of Uyuni.

Since the late nineties when so-called socialist politicians came to power in several Latin American countries, foreign private investors have been excluded from doing business through forced nationalizations or new stricter legal frameworks. Much to the advantage of the local politicians, the natural resources of the country have been used to finance local political projects. This attitude has been very detrimental to the appetite to invest and import money into Bolivia.

This reluctance to invest has been emphasized by the turmoil on the financial markets. The game played by Latin American emerging markets resulted in increased exposure to fluctuations in price of their products, on which the State revenues have been made dependant on. Declining prices made politicians grab hold of any profitable business within the borders of their own country in order to finance their political promises and

therefore unavoidably causing conflicts with foreign investors and even their own people.

Evo Morales, who became president of Bolivia six years ago, placed his country in the same row as Chavez's Venezuela, Correa's Ecuador and not to forget Castro's Cuba, by nationalising foreign energy companies. At first he made enormous strides and up-lifted living standards. His success was based on tax revenues from nationalised energy and mining industries, enabling him to finance his social projects. He has also been very lucky to profit from soaring commodity prices during the first half of his presidency.

But Morales future looks grim as he is lacking technical expertise for Bolivia's commodity-based economy. Oil and gas production need new technologies and new machinery. The omni-present corruption does not help much either in avoiding rusty oilrigs, which eventually need to pump up the oil.

Same as in Ecuador, the president turns to digging or pumping up more national natural resources in order to create funds to compensate the lack of the foreign capital input. This is opposite to the formally claimed humanitarian and ecologic rights or principles. Discussions have risen, fed by the indigenous communities accusing the government of sabotage and corruption. People notice that the political discourse does not fit the real actions of the government, which is more eager to generate money, rather than adhere to its political promises.

Once again this proves that governments of countries holding natural resources are much more helped with an open investment climate, safeguarding the continuity of their productions, rather than going for the short term vision of nationalisation and sucking up revenues for political gain. It is just a matter of time before foreign companies are being courted to invest in fresh explorations again. Whether the present Bolivian political leadership would consider this, remains uncertain.

**Boliva and Ecuador receivables ?
Please contact us for our solutions**

Cartels in Europe: The Pfleiderer judgment

One of the cornerstones of the European Union is the single market economy. A place where goods, services, capital and persons can circulate without restrictions and where there is free competition among companies. Free competition is sometimes crudely disturbed due to the existence of illegal cartels. To increase the strength of public enforcement and the possibility of discovery of cartels, an adjusted leniency programme was introduced by the European Commission in 2006. Since then, there has been a severe increase in cartel fines.

The European Commission, the watchdog when it comes to the discovery and penalization of European cartels, is very aware of the danger illegal cartels represent to the European economy. Therefore it is trying its utmost to, on the one hand fight and fine cartels and on the other hand encourage damaged persons and companies to seek private redress.

When it comes to private enforcement, the European Commission, in particular, is determined to facilitate private actions by harmed companies. Recent publications involving a Green Paper and a White Paper on Collective Redress are clear examples of this determination matter[1]. This two track policy of the Commission is now in danger due to the recent Pfleiderer judgment.

EAST-WEST DEBT
Specialist in defaulted debt and antitrust damages claims

In this case, the German competition authority, the Bundeskartellamt, fined several companies for violating the rules of EU competition law. A damaged company, Pfleiderer, wanted access to documentation in order to prepare a civil lawsuit against these companies. A dispute arose subsequently in a German court, whether disclosure of the documents submitted by companies that had cooperated with the German competition authority, would undermine the national leniency programme, as potential leniency applicants would fear eventual disclosure.

The case was subsequently brought before the European Court of Justice which concluded that the interests of preserving the effectiveness of leniency programmes and that of facilitating private antitrust damages actions, need to be balanced by the national courts on a case-by case basis[2].

The Court of Justice faced a difficult problem. The key question is how to weigh the effectiveness of public enforcement of competition law against the effectiveness of private enforcement of competition law. On the one hand, it acknowledges that potential leniency applicants might be discouraged from submitting evidence of the cartel under the existing leniency programmes if they were faced with the possibility of disclosure of that evidence to entities wishing to bring an action for damages[3]. On the other hand, in line with the ECJ-cases Courage and Manfredi, the right to bring an action for damages "strengthens the working of the Community competition rules" and the legal principle according to which Member States may not render the implementation of EU law impossible or excessively difficult implies that they "must not make it practically impossible or excessively difficult to obtain [...] compensation" for violations of competition law.

Due to Pfleiderer, companies can be reluctant to apply for leniency programs. Companies are frightened for a deterioration of their position in a civil lawsuit. Pfleiderer can also have a big effect on the possibility of private enforcement of competition rules, depending on the national court that is addressed. In jurisdictions like the UK and the Netherlands things are looking very promising for claimants, as the laws in these countries allow judges to consider a fine imposed by competition authorities as evidence of "fault" and thus give a robust position to bring a civil action. This ECJ decision enables "victims" of cartels to substantiate their civil actions against all participants in the illegal cartel.

[1] More on this see http://ec.europa.eu/competition/publications/annual_report/index.html
[2] Judgment of the Court in Pfleiderer AG v. Commission, C-360/09, 14 June 2011
[3] Discovery of Leniency Submissions in Europe: The Pfleiderer Judgment: Dawn of a New Era or Nothing New Under the Sun?

Are you interested in selling your claims or judgments?

Are you looking for a partner in sharing financial risk in obtaining or executing judgments?

Please call or e-mail us for a free assessment.

How does sovereign risk affect bank funding conditions? What can policymakers do?

This article first appeared on VoxEU.org on 26 July 2011 (www.voxeu.org), by Michael Davies and Fabio Panetta.

Sovereign credit risk has emerged as the main challenge to global financial stability. This column explains how a deterioration in sovereign creditworthiness can damage bank funding conditions before discussing possible options for mitigating these effects. It argues that banks can only do so much and that the policymakers have a critical role.

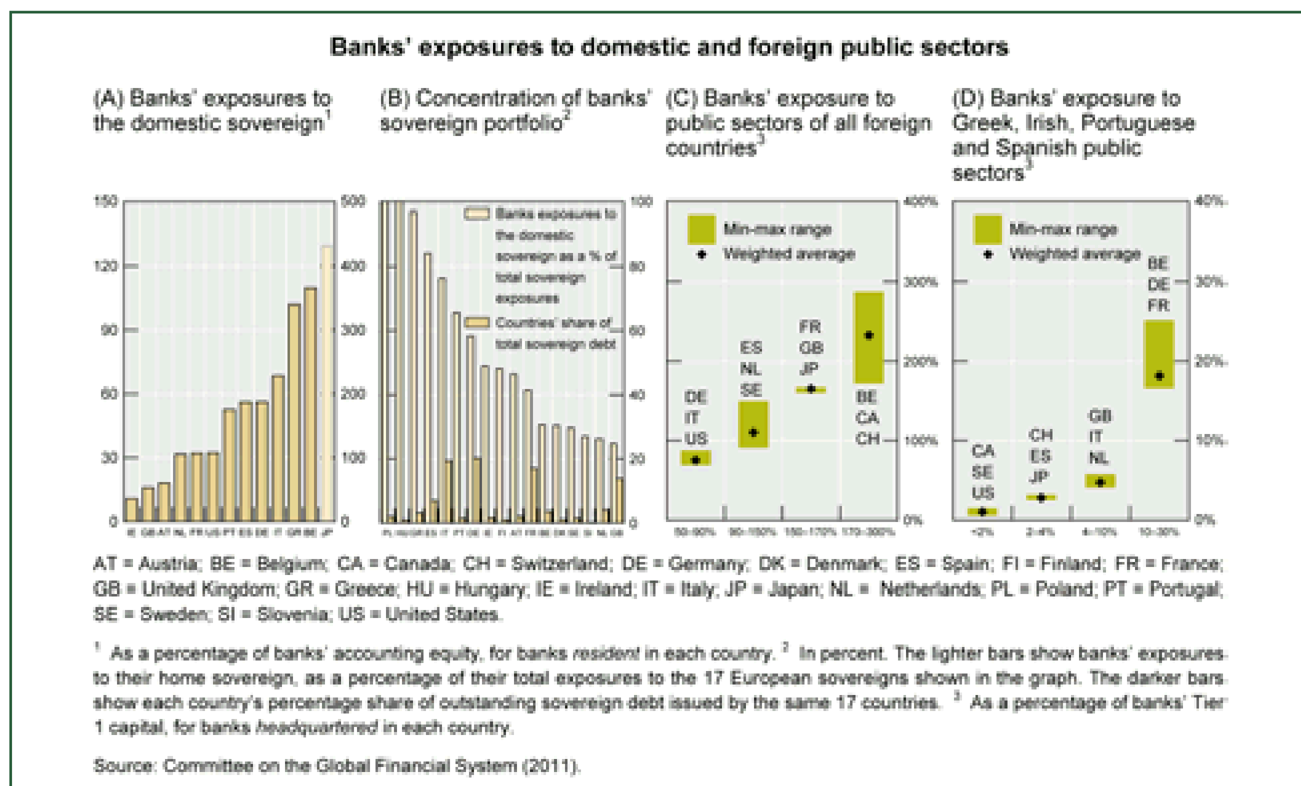
The financial crisis and the subsequent recession have caused a sharp deterioration in public finances across advanced countries, raising concerns about sovereign credit risk. Sovereign risk is already a major issue in the Eurozone, where three countries have received international assistance, and others have seen their credit ratings lowered during 2009-11 and/or their funding costs rise.

Looking forward, a broader range of countries could be affected. In advanced economies, government debt levels are expected to continue to rise over the coming years. Japan was downgraded in early 2011, and the UK and US have been warned at various stages that they might lose their triple-A ratings. Overall, risk premia on government debt will likely be higher and more volatile than they were in the past.

On 11 July, the Committee on the Global Financial System – a Basel-based central-bank forum that monitors global financial stability – released a report that examines how an increase in sovereign risk affects bank funding conditions and discusses banks' and policymakers' options for mitigating the impact (see CGFS 2011). The findings of that report are summarised here.

Channels through which sovereign risk affects bank funding conditions

The rise in sovereign risk since late 2009 has increased the cost and weakened the composition of bank funding, with the extent of the impact on banks broadly in line with the perceived deterioration in the creditworthiness of the home sovereign. Banks in Greece, Ireland, and Portugal have seen their credit-default swap premia rise to extremely high levels, their issuance of short-term wholesale debt fall sharply, and their deposit costs rise. They have also become reliant on central bank liquidity. The increase in funding costs has spilled over to banks in other European countries, although to a much lesser extent.



AT = Austria; BE = Belgium; CA = Canada; CH = Switzerland; DE = Germany; DK = Denmark; ES = Spain; FI = Finland; FR = France; GB = United Kingdom; GR = Greece; HU = Hungary; IE = Ireland; IT = Italy; JP = Japan; NL = Netherlands; PL = Poland; PT = Portugal; SE = Sweden; SI = Slovenia; US = United States.

[1] As a percentage of banks' accounting equity, for banks *resident* in each country. [2] In percent. The lighter bars show banks' exposures to their home sovereign, as a percentage of their total exposures to the 17 European sovereigns shown in the graph. The darker bars show each country's percentage share of outstanding sovereign debt issued by the same 17 countries. [3] As a percentage of banks' Tier 1 capital, for banks *headquartered* in each country.

Source: Committee on the Global Financial System (2011).

EAST-WEST DEBT

Specialist in defaulted debt and antitrust damages claims

The CGFS report identifies four main channels through which increases in sovereign risk affect bank funding conditions.

First, it causes losses on banks' sovereign holdings. Banks generally show a strong home bias in their sovereign portfolios (Figure 1, panels A and B). In some countries (for example Belgium, Canada and Switzerland) they also hold significant quantities of foreign sovereign debt (panel C). Exposures to the sovereigns most severely affected by the current crisis are significantly smaller, but sometimes non-negligible (panel D).

Second, it reduces the value of the collateral that banks can use to secure wholesale and central bank financing. In private repo markets, sovereign debt accounts for a large share of total collateral, and participants are highly sensitive to changes in its riskiness. For example, in European repo markets, only 1.6% of transactions were collateralised by Greek, Irish, and Portuguese government bonds in the second half of 2010, less than half the share in 2008 and 2009. Sovereign debt is also widely used as collateral in central bank operations.

Third, it lessens the funding benefits that banks derive from government guarantees, be they explicit or perceived. The value of implicit support to banks by the weaker Eurozone countries, as assessed by ratings agencies, has decreased noticeably since late 2009 and is now quite low.1 Similarly, the value of explicit government support for banks (measured by the spread between the yields on a bank's government-guaranteed and non-guaranteed senior bonds) tends to be higher in triple-A countries such as the Germany, France, the UK, and the US, than in non-AAA rated countries.

Fourth, sovereign downgrades often flow through to downgrades of domestic banks, thereby raising their wholesale funding costs and possibly reducing their market access. Rating triggers in derivatives contracts can also lead to margin calls on a bank that is downgraded.

Overall, these effects tend to increase banks' funding costs (particularly for wholesale funding) and impair banks' access to financial markets. Reflecting growing financial integration and the close links among the financial markets of advanced economies, distress of one sovereign tends to spill over to other sovereigns and banks. Global interbank exposures are large for banks in most advanced economies. Banks also often have sizeable claims on non-bank private entities in foreign countries. Sovereign tensions can also spread among countries that are perceived to be vulnerable because they have some of the economic characteristics of the worst affected countries. These international spillovers have played a non-trivial role in the recent sovereign debt crisis in the Eurozone.

Are you a victim of a competition law infringement?

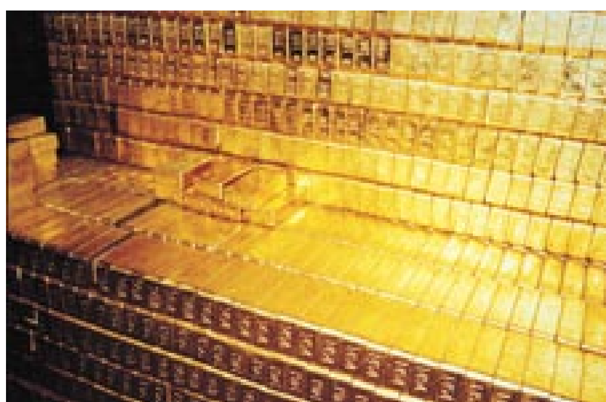
The antitrust specialists of East-West Debt are ready to assess your case.

Please contact us at 00 31 (0)70 360 44 66.

How banks might respond
Banks can mitigate the effects of rising sovereign risk by changing their operations, but there are trade-offs for them in doing so.

On the assets side, in an environment where sovereign debt is no longer risk-free, banks might further diversify the country composition of their sovereign portfolios to contain their over-exposure to the home sovereign. However, for some banking systems this implies a trade-off between sovereign risk and liquidity risk, as foreign sovereign debt may not be eligible to satisfy liquidity standards or as collateral in central bank and private repurchase agreements.

On the liabilities side, banks can protect themselves against funding risk from periodic bouts of (sovereign induced) investor risk aversion by increasing their use of more stable funding sources (such as deposits, long-term debt and equity), diversifying the timing of their debt issuance, and avoiding clustering of maturing wholesale debt. However, this may push up banks' average funding costs (though not their "risk-adjusted" costs). Large cross-border banks might also diversify their debt issues across different jurisdictions through their subsidiaries.



Lastly, internationally active banks will need to pay greater attention to the public finances in countries in which they operate, as any worsening in sovereign risk in those countries could affect their branches or subsidiaries, with negative spillovers to the parent bank.

What can policymakers do?
The official sector also has a key role in minimising the impact of sovereign risk on banks. Though, again, there are tradeoffs.

The most important lesson is for governments. Because it is nigh impossible to protect the banking system from a distressed domestic sovereign, they must recognise that sound public finances are essential. Moreover, increasing financial integration means that international financial stability depends on the solidity of fiscal conditions in each individual country. Strong government finances are becoming a public good that each country supplies to other countries.

Second, bank supervisors need to monitor the interaction of sovereign risk with regulatory policies that encourage banks to hold large quantities of public debt. Moreover, during a crisis, when risk aversion is high, uncertainty about the banks' assets (including sovereign portfolios) can create funding pressures for all banks. Depending on the specific circumstances, coordinated ad hoc disclosures of individual banks' sovereign exposures may be beneficial.

Third, central banks might consider having flexible operational frameworks that, during severe crises, allow funding to be supplied to banks against a broad range of collateral to ease immediate liquidity pressures. However, this is not costless – it shifts credit risk to the central bank and encourages moral hazard – and so should be used sparingly and with appropriate safeguards.

Lastly, ongoing regulatory reforms that target the "too-big-to-fail" issue have an important role in reducing investors' expectations of government support for banks, thereby helping to weaken the link between sovereigns and banks.

The bottom line is that deteriorating fiscal conditions have an adverse impact on the stability of banking systems at home and abroad. Fiscal authorities need to step up efforts to return public finances to more solid long-term paths. Banks, their supervisors, and central banks should act now to prepare for a sustained period of more volatile sovereign risk premiums. While it is impossible to fully insulate the banking system from a distressed domestic sovereign, everyone has a role in minimising the impact.

**Is your company still holding receivables on Iraq?
Please contact our office for solutions.**

Iran: a grumbling oil economy with sand in the gears

It is known that Iran is under expansive sanction pressures by the United States, the European Union and other Western countries over its controversial nuclear program, which the West believes is moving to the atomic weaponry development. However, Tehran denies the allegations, saying that the nuclear program is for civilian and peaceful purpose.

Even for Iran the international sanctions must have an effect on the financial status of the country, as direct investments are also being hindered by unfavourable or complex operating requirements, despite the liberalized investment regulations of the early 2000s.

According to the IMF, president's Mahmoud Ahmadinejad's Iran is facing the punitive measures against the country very well and altered its previous predictions on Iran's growth in a positive sense, although this altered IMF report has been criticized by Western economists.

Iran's wealth is oil and therefore every political decision in connection to the energy sector has consequences for the oil based economy.

In its domestic oil market Iran had been selling oil very cheap during the period before the financial crisis of 2008, making Iran's economy very energy intensive, absorbing crude oil distillates, natural gas and electricity. This was Iran's idea of distributing its national wealth. This has changed now.

The Iranian government has been reducing such subsidies since mid 2010 in the run up to the UN Security Council resolution 1929 and the US imposing economic sanctions. By reducing subsidies Iran is leaving more energy resources for export, in order to cope with the financial effects of the international sanctions.

Although a country's economy is never served with economic restrictions and should make the political leadership yield to international demands, Iran plays hardball. It takes matters into its own hands and is slowly changing the way of trading its energy resources.

In July 2011, Iran has officially opened an international oil bourse on the Persian Gulf Island of Kish for the convenience of international customers. Iran also strengthened the ties with its best customer for oil, Japan, with a $12 billion trade over 2010. The Iranian ambassador to Tokyo expects this trade value to reach $14 to $15 billion for 2011, despite the UN sanctions against Iran.

Meanwhile the new Iranian minister for oil is threatening to replace the foreign oil companies with the Revolutionary Guard's economic conglomerate. This affects some Chinese and Indian companies who are still working in Iran after Total and Royal Dutch Shell have already left the country.

These events show clearly that the US-led sanctions have changed the oil business in Iran, in such a way that domestic, state owned oil companies have gained importance and that foreign oil investments have been further reduced. Iran wishes to increase the export of refined products and not that of crude oil.

At the same time Iran is playing an ambiguous game with Western companies, as was proven with the Industry Exhibition in Tehran last April, 2011. On one hand Western governments criticize Iran's pursuit of nuclear weapons and its human rights violations, but on the other hand keep doing business with Iran.

Germany in particular has been in the news for helping Iran with its oil trade — although it has been claimed that any "help" was only given to get two German journalists released — whereas "Bundeskansler" Angela Merkel has been a vocal critic of Iran's nuclear policy. Also Italy and Spain have

been promoting participation in the Tehran oil and gas exhibition, despite the European Union sanctions that include restrictions on trade in key equipment and technology for, and restrictions on investment in the Iranian oil and gas industry.

All of this business with Iran may be bad news to human rights organizations, seeking a total embargo on Iran, but to creditors of Iran this is actually good news. As there are companies, which have payments to receive, there are also companies with payments to be made.

By way of example the Indian oil companies owe Iran billions of dollars. India's central bank said early this year 2011, payments to Iran could no longer be done through a longstanding clearinghouse system run by central banks. Later in August 2011 Indian refiners have offered a payment plan, forcing Iran to issue crude oil supplies on a cargo by cargo basis.

The problem with Iran is that its centralized energy sector and state driven oil economy does not leave much room for foreign investors, who seem to be invited just to mock the US-led sanctions. Only high tech companies, of which most are German, are making money in Iran. The state owned oil sector also makes Iran particularly vulnerable to state creditors.

Since the end of the Iran-Iraq war in 1988 and the death of the Ayatollah Khomeini one year later, Iran entered a new era of relaxing regulations against foreign investments and shifted towards neo-liberal economic policies, making it a real emerging market. The state started borrowing from international creditors such as the World Bank and the IMF.

Oil paid for Iran's debts but some political decisions to benefit the people of Iran and ensure support for the Government in power had a negative effect on Iran's import-export balance. Even to the extent that Iran had to import refined oil products. The subsidies that caused this effect were halted and Iran reacted by scaring away foreign investors and placed the oil industry into state owned companies.

It is a matter of time before Iran will have to fall back on its oil dollars to pay for economic consequences of this political decision.

Turkmenistan: slow move towards a market based economy

After the death of president Niazov in 2006, Turkmen turned away from his Ruchnama or 'The Book of Soles', in which Niazov wrote down his philosophical views on how Turkmen should live and emphasized his personality cult of the Turkmenbashi (or leader of the Turkmen). With Niazov's death Turkmenistan was freed from a Stalinist leadership and could start building up an open market economy, interesting for foreign investors. But this process seems to move slower than expected.

In 2007, a new Foreign Investment Law was passed, that would allow foreigners to acquire real estate and enterprises. Foreign investors would also have the right to form joint-stock enterprises or their own enterprises.

But this was actually nothing new. Officially foreigners have always had the possibility to found enterprises in Turkmenistan. The changes to the investment law were merely cosmetic.

Reality was and still is that everything depends on a personal agreement with the authorities in Turkmenistan. After all, Turkmenistan did not yet move towards a multi-party democracy or a market based economy.

Nevertheless, due to the richness of natural resources the country has experienced an impressive growth supported by very high world commodity prices. The global financial crisis has had no direct impact on financial institutions, as the banking system is dominated by state owned banks with few international links.

The foreign investment policy however, lacks diversity, as its economy and therefore also its foreign investment strategy is focused on the hydrocarbon sector (gas).

The European Central Bank has already announced willingness to work together with private sector investors if Turkmenistan addresses some key transition challenges, such as the diversification of the economy, the competitiveness of the private sector (meaning less state-owned businesses), the reduction of state interference in the financial sector, the introduction of international best practice of the private oil and gas sector and the modernisation of the infrastructure.

At this moment Turkmenistan is still very dependent on its sales of gas to finance its governmental policies. Russia, Ukraine and Iran are the main customers for Turkmen gas. Not the easiest clients to cope with, as Russia strives to be the energy giant in Asia and Europe. Russia is known to have purchased Turkmen gas to resell it to Ukraine. Ukraine wants to lead a more independent energy policy by purchasing gas directly from Turkmenistan, much to the dislike of Russia's Gazprom. Selling gas to Iran is yet again a totally different ball game, which is regarded as politically sensitive by most Western countries. Concerns on this matter have been expressed through the European Central Bank, but the EU is also courting Turkmenistan as an alternative provider of gas and is therefore pushing forward to build the Nabucco pipeline.

Despite the political turmoil a foreign investor may still profit from the needs of the Turkmenistan economy.

Many countries and organisations are already providing assistance to the Turkmen. For example UNCTAD, which is offering extensive expertise and assistance with the formulation of investment and trade policies. In this process diversification of the economy is a particularly important issue, in order to make the country more resilient in primary commodity markets.

Turkmenistan has signed several Bilateral Investment Treaties (BITS) since the second half of the nineties to encourage investments in its country. But regardless of the apparent openness and accessible legal provisions, it is still a country with a centralised single-party state set of mind. The government insists on maintaining majority stakes and both managerial and operational control in all major projects. Also the disrespect for the human rights of political opposition leaders is often noted in news releases about Turkmenistan.

EAST-WEST DEBT
Specialist in defaulted debt and antitrust damages claims

Turkmen regulation sets tax structures for projects, but leaves a lot of room for negotiations. The size of royalties is determined in each agreement. This creates a very volatile tax climate.

Most agreements do guarantee the right to international arbitration. Legislation allows parties to seek international arbitration for the resolution of any disputes in all its aspects (issuance, suspension or annulment of a license etc.), but then again limits the applicability of these rights. Turkmen law has also provided administrative hearings systems for adjudication of a dispute and provides for an authority to keep the hearings (The Competent Body). The latter needs to approve the agreement between the investor and the Government. If not approved, the Turkmen Government does not need to adhere to the dispute-resolution mechanism as stipulated between parties.

Moreover, rules and regulation fail to provide specific provisions binding Turkmenistan to the enforcement of awards and there is no express sovereign immunity waiver contained in any legislation. Most importantly with regard to any arbitral dispute resolution, Turkmenistan is not a member of the New York Convention of 1958 on the Recognition and enforcement of foreign arbitration awards. However, it is member to the ICSID convention and the Energy Charter Treaty of 1994. Under the ICSID in particular, the recognition and enforcement of an award may be obtained from the competent court of a contracting state on simple presentation of a certified copy of the award. But, as every well-informed businessman should know, the regime of the ICSID convention does not extend to the execution of the award.

Such execution is governed by the law on the execution of the judgment in force in the country where execution is sought. Additionally, the convention does not derogate from the law of the enforcement forum on sovereign immunity from execution of an award.

This is the problem when dealing with most political risk countries, like Turkmenistan. If a dispute arises, which cannot be settled amicably, and one decides to revert to its contractual dispute resolution mechanism, the execution seems to be a harder nut to crack than the actual arbitration procedure.

Venezuela: when the talk does not match the walk, Chavez's 21st century

Venezuela is an increasingly uncomfortable country for foreign investors, as Exxon experienced already.

Exxon expected a compensation for its nationalised assets in 2007, after the prosecutor-general Carlos Escarra said that the state oil company PDVSA might be paying up to $6 billion for Exxon's share in extra heavy oil projects seized in the Orinoco Belt four years ago. The president of PDVSA, Ramirez, recently stated that Exxon would be lucky if it would get $1 billion compensation.

It is this sort of administrative and political quarrelling that makes foreign investors reluctant to invest in a country. This is certainly the case for smaller investors.

Especially a man such as Hugo Chavez chases away foreigners. After Venezuela has lost multiple cases thanks to Chavez's nationalisation craze, it is considering withdrawing from the World Bank's International Centre for Settlement of Investment Disputes (ICSID). This is not the first time Chavez has threatened pulling back from the ICSID. He has also made other threats, like leaving the IMF for example.

EAST-WEST DEBT
Specialist in defaulted debt and antitrust damages claims

Chavez has always used nationalisation to ingratiate himself with his voters, as he did with Sidetur, a company making steel rods for buildings, together with some uncompleted urban residential development projects and a golf course. He targeted these industrial and bourgeois icons in order to cope with the housing problem, for which the population living in chaotic shantytowns urge. Recently, he said he would nationalise Venezuela's gold industry to cope with illegal mining by the mafias.

The real reasons for the nationalisation are not always those pronounced by Chavez, as the Financial Times quoted opposition leader Julio Montoya regarding Venezuela's gold. In his opinion this nationalisation threat was merely an excuse to have gold reserves transferred to China, Russia and Brazil in order to provide for guarantees for the loans Venezuela had received in recent years. This opinion is strengthened by the fact that the only international gold mining company that has not yet been nationalised, is the Russian mining company Rusoro.

Who wants to invest in a country with a government that nationalises any private company in order to pay for its debts or fund its political projects? Since the 2007 case of Exxon Mobile in the oil sector and also due to some nationalisations in the telecommunications and electricity production sectors, Chavez has doomed Venezuela's financial future by ignoring one of the basic rules of investing successfully: "money moves markets".

Chavez has chosen for an investor's retreat. Although, when he came to power in 1998, his reasoning for nationalising the oil sector was sound. He wanted to reduce Venezuela's dependence on oil, which represented 80% of its exports. But the execution of this objective was disastrous: Venezuela stumbled into a recession. Ironically, it was the soaring oil prices from 2005 onwards that brought Venezuela back to a reasonably growing emerging market. Nonetheless, Chavez's nationalization drive continued, arguing that potentially lucrative sectors, such as oil, electricity and telecommunications, needed to be state controlled in order to boost Venezuela's overall standard of living and not just for the profit of foreign companies. With the 2008 crisis Chavez's popular politics to divide Venezuela's wealth amongst all citizens, seems to be financed by the

only method he knows: nationalisation.

The debt rating today is in the regions of a B-plus, although comforting for bond investors, it is still linked to a high default risk. Some analysts think a default is increasingly possible before Chavez seeks re-election in December 2012, but most experts expect his socialist government to keep paying, based on its good track record and soaring oil prices.

Yet again, oil keeps Venezuela afloat and Chavez's initial idea to make the country less dependent from his oil revenues, has long been forgotten.

But as was reported by Reuters, analysts say that investors' appetite for risk is likely to remain supportive in the near future, but Chavez's self-styled "21st century socialism" has caused some concern. If Chavez is re-elected and continues draining Venezuela's resources and investments, as he is today, the country will soon get on the list of defaulting countries.

Boliva and Venezuela receivables ?
Please contact us for our solutions.

NEWSLETTER

EAST-WEST DEBT

Specialist in defaulted debt and antitrust damages claims

How to contact us ?

Please contact us for more information about our company and a free assessment of your claims.

For the latest information on our company and news, please visit our website: www.eastwest.be

East-West Debt N.V.
Meir 24
2000 Antwerp
Belgium
Tel: +32 3 231 4503
Fax: +32 3 231 9545
Contact: mail@eastwest.be

East-West Debt B.V.
Nieuwe Schoolstraat 81
2514 HV The Hague
The Netherlands
Tel: +31 70 360 44 66
Fax: +31 70 780 17 08
Contact person: Michael Löwenthal
info@eastwestdebt.nl
m.lowenthal@eastwestdebt.nl

Debts on political risk countries

East-West Debt assists multinationals, banks, insurance companies and governments to solve their defaulted debts and claims on political risk countries. We have solved claims all over the world, even in extremely difficult jurisdictions such as the former USSR, Iran and Iraq.

East-West Debt will try to maximise the worth of every claim, even if these have remained unpaid for many years.

Antitrust litigation

Due to the high cost of international litigation, most companies are unable or unwilling to claim their damages. East-West Debt wants to purchase your company's claim and bear the expenses involved in the process of its recovery. This will allow your company to recover your claim without the risk of high litigation expenses.

East-West Debt never charges additional costs or expenses, however we will retain a minor percentage of the total amount recovered at highly competitive rate, to cover expenses and provided services.

East-West Debt has made every effort to ensure the accuracy of this publication. Neither East-West Debt nor any contributor can be held responsible or liable for the content or accuracy of any of the information published in this newsletter. This publication is not a substitute for professional advise and all information is for guidance only.